



UNITED STATES PATENT AND TRADEMARK OFFICE

mn
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,000	05/23/2001	Yuko Aki	0828.65568	1870
7590 06/08/2007				
Patrick G. Burns, Esq. GREER, BURNS & CRAIN, LTD. 300 South Wacker Dr., Suite 2500 Chicago, IL 60606				
			EXAMINER	
			JACOBS, LASHONDA T	
			ART UNIT	PAPER NUMBER
			2157	
			MAIL DATE	DELIVERY MODE
			06/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/864,000	Applicant(s) AKI ET AL.	
	Examiner LaShonda T. Jacobs	Art Unit 2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on March 19, 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

This is a Final Office Action in response to Applicants' Amendment/Request for Reconsideration filed on March 19, 2007. Claims 2-12 are presented for further examination.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims **2-12** rejected under 35 U.S.C. 102(e) as being anticipated by Natarajan et al (hereinafter, "Natarajan", 6,505,244)

As per claims **5** and **9**, Natarajan discloses a computer-readable medium storing a program for monitoring activities on a network, the program causing a computer system to function as:

- monitoring policy setting means for setting a monitoring policy (col. 2, lines 47-67, col. 3, lines 1-22 and col. 14, lines 56-67; Natarajan discloses a policy engine that contains policies for monitoring network elements on a network);
- monitoring means for monitoring the network according to the policy set in said monitoring policy setting means (col. 10, lines 41-57, col. 13, lines 45-67, col. 14, lines 1-4 and col. 16, lines 18-38; Natarajan discloses an event handler that monitors specific network elements on the network. The event handler reports errors detected by the

network elements to the event server and the policy engine. The policy engine updates and stores new control information from various elements); and

- monitoring policy changing means for changing current policy being set in said monitoring policy setting means, according to a monitoring result reported by said monitoring means (col. 10, lines 41-57, col. 13, lines 45-67, col. 14, lines 1-4 and col. 16, lines 18-38; Natarajan discloses an event handler that monitors specific network elements on the network. The event handler reports errors detected by the network elements to the event server and the policy engine. The policy engine updates and stores new control information from various elements. The policies are dynamically/automatically modified in order to change the way in which the policy controls the network elements).
- wherein the monitoring policy changing means automatically increases the frequency (time interval or polling interval) of monitoring and adds a new object or item to the coverage of the monitoring, when degradation in service level of the network is observed (col. 21, lines 1-27, col. 28, lines 59-67 and col. 33, lines 1-23; Natarajan discloses a policy engine for modifying/updating the control parameters for network elements in which the event handler have detected errors. The updated network control parameters effects the changes in the network. The Examiner interprets the changes in the network as adding a new object (network element) or item (parameters associated with the network elements) to the coverage of monitoring, when degradation in the service level of the network is observed since the changes on the network is based on the updating of the control parameters associated with the network elements. Therefore,

Art Unit: 2157

Natarajan discloses wherein the monitoring policy changing means automatically increases the frequency of monitoring and adds a new object or item to the coverage of the monitoring, when degradation in service level of the network is observed).

As per claim 2, Natarajan discloses:

- wherein the monitoring policy includes a parameter that specifies how frequently the monitoring will be conducted (col. 16, lines 56-67 and col. 18, lines 6-26; Natarajan discloses a CIR policy in which various parameters(e.g. predetermined time interval) are initialized once the policy is loaded. The CIR policy includes a predetermined time interval for repeating or exiting the CIR policy procedure).

As per claim 3, Natarajan discloses:

- wherein the monitoring policy includes a parameter that specifies which object (e.g. network elements) to monitor (col. 7, lines 5-11 and lines 19-27; Natarajan discloses a monitor policy for monitoring network elements on a network).

As per claim 4, Natarajan discloses:

- wherein the monitoring policy includes a parameter that specifies which item(e.g. congestion indicators) to monitor (col. 8, lines 41-51 and col. 16, lines 56-67; Natarajan discloses a monitor policy for monitoring specific parameters associated with the network elements such as committed information, excess information rate, congestion indicators, etc.).

As per claim 6, Natarajan discloses a computer-readable medium storing a program for monitoring activities on a network, the program causing a computer system to function as:

- monitoring policy setting means for setting a monitoring policy (col. 2, lines 47-67, col. 3, lines 1-22 and col. 14, lines 56-67; Natarajan discloses a policy engine that contains policies for monitoring network elements on a network);
- monitoring means for monitoring the network according to the policy set in said monitoring policy setting means (col. 10, lines 41-57, col. 13, lines 45-67, col. 14, lines 1-4 and col. 16, lines 18-38; Natarajan discloses an event handler that monitors specific network elements on the network. The event handler reports errors detected by the network elements to the event server and the policy engine. The policy engine updates and stores new control information from various elements); and
- monitoring policy automatically changing means for changing current policy being set in said monitoring policy setting means, according to a monitoring result reported by said monitoring means (col. 10, lines 41-57, col. 13, lines 45-67, col. 14, lines 1-4 and col. 16, lines 18-38; Natarajan discloses an event handler that monitors specific network elements on the network. The event handler reports errors detected by the network elements to the event server and the policy engine. The policy engine updates and stores new control information from various elements. The policies are dynamically/automatically modified in order to change the way in which the policy controls the network elements),
- wherein the monitoring policy changing means automatically decreases the frequency (time interval or polling interval) of the monitoring and withdraws an existing object or item from the coverage of the monitoring, when improvement in service level of the network is observed (col. 21, lines 1-27, col. 28, lines 59-67 and col. 33, lines 1-23;

Natarajan discloses a policy engine for modifying/updating the control parameters for network elements in which the event handler have detected errors. The updated network control parameters effects the changes in the network. The Examiner interprets the changes in the network as withdrawing an existing object (network element) or item (parameters associated with the network elements) to the coverage of monitoring, when degradation in the service level of the network is observed since the changes on the network is based on the updating of the control parameters associated with the network elements. Therefore, Natarajan discloses wherein the monitoring policy changing means automatically decreases the frequency of the monitoring and withdraws an existing object or item from the coverage of the monitoring, when improvement in service level of the network is observed).

As per claim 7, Natarajan further discloses:

- storing a program which causes the computer system to function as resource setup changing means for changing a setup of a predetermined set of resources on the network according to the monitoring result reported by said monitoring means (col. 29, lines 59-67 and col. 30, lines 1-21; Natarajan discloses requiring additional resources to provide a satisfactory level of quality for the application according to the changing conditions in the network. The additional resources are received as a result of an increase in the allotted bandwidth. Therefore, Natarajan explicitly discloses storing a program which causes the computer system to function as resource setup changing means for changing a setup of a predetermined set of resources on the network according to the monitoring result reported by said monitoring means).

As per claim 8, Natarajan further discloses:

- storing a program which causes the computer system to function as event detecting means for detecting the occurrence of a particular event in a predetermined resource on the network, wherein said monitoring policy changing means changes the current monitoring policy in response to the particular event detected by said event detecting means (col. 10, lines 41-57, col. 13, lines 45-67, col. 14, lines 1-4 and col. 16, lines 18-38; Natarajan discloses an event handler that monitors specific network elements on the network. The event handler reports errors detected by the network elements to the event server and the policy engine. The policy engine updates and stores new control information from various elements. The policies are dynamically/automatically modified in order to change the way in which the policy controls the network elements).

As per claim 9, Natarajan discloses a network monitoring system which monitors activities on a network, comprising:

- monitoring policy setting means for setting a monitoring policy (col. 2, lines 47-67, col. 3, lines 1-22 and col. 14, lines 56-67; Natarajan discloses a policy engine that contains policies for monitoring network elements on a network);
- monitoring means for monitoring the network according to the policy set in said monitoring policy setting means (col. 10, lines 41-57, col. 13, lines 45-67, col. 14, lines 1-4 and col. 16, lines 18-38; Natarajan discloses an event handler that monitors specific network elements on the network. The event handler reports errors detected by the network elements to the event server and the policy engine. The policy engine updates and stores new control information from various elements); and

- monitoring policy changing means for automatically changing current policy being set in said monitoring policy setting means, according to a monitoring result reported by said monitoring means (col. 10, lines 41-57, col. 13, lines 45-67, col. 14, lines 1-4 and col. 16, lines 18-38; Natarajan discloses an event handler that monitors specific network elements on the network. The event handler reports errors detected by the network elements to the event server and the policy engine. The policy engine updates and stores new control information from various elements. The policies are dynamically/automatically modified in order to change the way in which the policy controls the network elements; and
- wherein the monitoring policy changing means automatically increases the frequency (time interval or polling interval) of monitoring and adds a new object or item to the coverage of the monitoring, when degradation in service level of the network is observed (col. 21, lines 1-27, col. 28, lines 59-67 and col. 33, lines 1-23; Natarajan discloses a policy engine for modifying/updating the control parameters for network elements in which the event handler have detected errors. The updated network control parameters effects the changes in the network. The Examiner interprets the changes in the network as adding a new object (network element) or item (parameters associated with the network elements) to the coverage of monitoring, when degradation in the service level of the network is observed since the changes on the network is based on the updating of the control parameters associated with the network elements. Therefore, Natarajan discloses wherein the monitoring policy changing means automatically

Art Unit: 2157

increases the frequency of monitoring and adds a new object or item to the coverage of the monitoring, when degradation in service level of the network is observed).

As per claim 10, Natarajan discloses a method of monitoring activities on a network, comprising the steps of:

(a) setting a monitoring policy (col. 2, lines 47-67, col. 3, lines 1-22 and col. 14, lines 56-67; Natarajan discloses a policy engine that contains policies for monitoring network elements on a network);

(b) monitoring the network according to the policy set at said step (a) of setting (col. 10, lines 41-57, col. 13, lines 45-67, col. 14, lines 1-4 and col. 16, lines 18-38; Natarajan discloses an event handler that monitors specific network elements on the network. The event handler reports errors detected by the network elements to the event server and the policy engine. The policy engine updates and stores new control information from various elements); and

(c) automatically changing the current monitoring policy that is originally at said step (a) of setting, according to a monitoring result obtained at said step (b) of monitoring (col. 10, lines 41-57, col. 13, lines 45-67, col. 14, lines 1-4 and col. 16, lines 18-38; Natarajan discloses an event handler that monitors specific network elements on the network. The event handler reports errors detected by the network elements to the event server and the policy engine. The policy engine updates and stores new control information from various elements. The policies are dynamically/automatically modified in order to change the way in which the policy controls the network elements); and

(d) automatically increasing the frequency (time interval or polling interval) of the monitoring and adding a new object and/or item to the coverage of the monitoring, when degradation in the service level of the network is observed (col. 21, lines 1-27, col. 28, lines 59-67 and col. 33, lines 1-23; Natarajan discloses a policy engine for modifying/updating the control parameters for network elements in which the event handler have detected errors. The updated network control parameters effects the changes in the network. The Examiner interprets the changes in the network as adding a new object (network element) or item (parameters associated with the network elements) to the coverage of monitoring, when degradation in the service level of the network is observed since the changes on the network is based on the updating of the control parameters associated with the network elements. Therefore, Natarajan discloses wherein the monitoring policy changing means automatically increases the frequency of monitoring and adds a new object or item to the coverage of the monitoring, when degradation in service level of the network is observed)

As per claim 11, Natarajan discloses a network monitoring system which monitors activities on a network, comprising:

- monitoring policy setting means for setting a monitoring policy (col. 2, lines 47-67, col. 3, lines 1-22 and col. 14, lines 56-67; Natarajan discloses a policy engine that contains policies for monitoring network elements on a network);
- monitoring means for monitoring the network according to the policy set in said monitoring policy setting means (col. 10, lines 41-57, col. 13, lines 45-67, col. 14, lines 1-4 and col. 16, lines 18-38; Natarajan discloses an event handler that monitors specific network elements on the network. The event handler reports errors detected by the

Art Unit: 2157

network elements to the event server and the policy engine. The policy engine updates and stores new control information from various elements); and

- monitoring policy changing means for automatically changing current policy being set in said monitoring policy setting means, according to a monitoring result reported by said monitoring means (col. 10, lines 41-57, col. 13, lines 45-67, col. 14, lines 1-4 and col. 16, lines 18-38; Natarajan discloses an event handler that monitors specific network elements on the network. The event handler reports errors detected by the network elements to the event server and the policy engine. The policy engine updates and stores new control information from various elements. The policies are dynamically/automatically modified in order to change the way in which the policy controls the network elements); and
- wherein the monitoring policy changing means automatically decreases the frequency (time interval or polling interval) of the monitoring and withdraws an existing object and/or items from the coverage of the monitoring, when improvement in service level of the network is observed (col. 21, lines 1-27, col. 28, lines 59-67 and col. 33, lines 1-23; Natarajan discloses a policy engine for modifying/updating the control parameters for network elements in which the event handler have detected errors. The updated network control parameters effects the changes in the network. The Examiner interprets the changes in the network as withdrawing an existing object (network element) or item (parameters associated with the network elements) to the coverage of monitoring, when degradation in the service level of the network is observed since the changes on the network is based on the updating of the control parameters associated with the network

elements. Therefore, Natarajan discloses wherein the monitoring policy changing means automatically decreases the frequency of the monitoring and withdraws an existing object or item from the coverage of the monitoring, when improvement in service level of the network is observed).

As per claim 12, Natarajan discloses a method of monitoring activities on a network, comprising the steps of:

(a) setting a monitoring policy (col. 2, lines 47-67, col. 3, lines 1-22 and col. 14, lines 56-67; Natarajan discloses a policy engine that contains policies for monitoring network elements on a network);

(b) monitoring the network according to the policy set at said step (a) of setting (col. 10, lines 41-57, col. 13, lines 45-67, col. 14, lines 1-4 and col. 16, lines 18-38; Natarajan discloses an event handler that monitors specific network elements on the network. The event handler reports errors detected by the network elements to the event server and the policy engine. The policy engine updates and stores new control information from various elements); and

(c) automatically changing the current monitoring policy that is originally at said step (a) of setting, according to a monitoring result obtained at said step (b) of monitoring (col. 10, lines 41-57, col. 13, lines 45-67, col. 14, lines 1-4 and col. 16, lines 18-38; Natarajan discloses an event handler that monitors specific network elements on the network. The event handler reports errors detected by the network elements to the event server and the policy engine. The policy engine updates and stores new control information from various

elements. The policies are dynamically/automatically modified in order to change the way in which the policy controls the network elements); and

(d) automatically decreasing the frequency (time interval or polling interval) of the monitoring and withdrawing an existing object and/or item to the coverage of the monitoring, when improvement in the service level of the network is observed (col. 21, lines 1-27, col. 28, lines 59-67 and col. 33, lines 1-23; Natarajan discloses a policy engine for modifying/updating the control parameters for network elements in which the event handler have detected errors. The updated network control parameters effects the changes in the network. The Examiner interprets the changes in the network as withdrawing an existing object (network element) or item (parameters associated with the network elements) to the coverage of monitoring, when degradation in the service level of the network is observed since the changes on the network is based on the updating of the control parameters associated with the network elements. Therefore, Natarajan discloses wherein the monitoring policy changing means automatically decreases the frequency of the monitoring and withdraws an existing object or item from the coverage of the monitoring, when improvement in service level of the network is observed).

Response to Arguments

3. Applicant's arguments filed March 19, 2007 have been fully considered but they are not persuasive.

The Office Notes the following arguments:

Art Unit: 2157

- a. Natarajan fails to teach or suggest automatically changing a monitoring policy in the specific ways defined in claims 5, 6 and 9-12.
- b. Natarajan does not teach the automatic increasing of monitoring frequency and adding a new object or item coverage in claims 5, 9 and 10.
- c. Natarajan does not teach the automatic decreasing of monitoring frequency and withdrawal of an existing object or item from coverage in claims 6, 11 and 12.

In response to:

(a)-(c) Applicants argue that Natarajan does not teach the automatic increasing of monitoring frequency and adding a new object or item coverage in claims 5, 9 and 10 and the automatic decreasing of monitoring frequency and withdrawal of an existing object or item from coverage in claims 6, 11 and 12. However, the Examiner disagrees. Natarajan teaches a policy engine for modifying/updating the control parameters for network elements in which the updated control information for at least one network element is automatically generated. The policy engine may either repeatedly poll the data store for updated network data or rely on notification that a changed in the network conditions has occurred. Once a change has occurred application specific plug-ins which includes frame relay policies, ATM policies, quality of service policies, etc., are added or deleted from the system based on the changed in the network conditions.

Natarajan also teaches monitoring the service level agreement between the service provider and the client in which specific guidelines or criteria are set forth within. The service parameters are monitored during a specified time period to ensure that the parameters meet with the corresponding standards specified within the service level agreement. If the parameters within the service level agreement do meet the standards, a report specifying the problem is sent to the

Art Unit: 2157

ADMIN in which in appropriate action is made by the ADMIN (see Natarajan, abstract, col. col.2, lines 22-65, col. 7, lines 15-32, col. 14, lines 33-67, col. 28, lines 49-67 and col. 33, lines 1-36). Accordingly, Applicant specification the service level is monitored between a client and a web server and the client is able to modify the existing monitoring policy by adding or deleting policy definitions (see pages 6-9 and pages 12-15). By giving the broadest interpretation of Applicant claim language, Natarajan does teach the automatic increasing of monitoring frequency and adding a new object or item coverage in claims 5, 9 and 10 and the automatic decreasing of monitoring frequency and withdrawal of an existing object or item from coverage in claims 6, 11 and 12.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2157

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaShonda T. Jacobs whose telephone number is 571-272-4004.


The examiner can normally be reached on 8:30 A.M.-5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LaShonda T Jacobs
Examiner
Art Unit 2157

ltj
June 4, 2007


ARIO ETIENNE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100